

Docket No.: JKJ-003US

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(PATENT)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Robyn O'Hehir *et al.*

Application No.: 10/510,276

Confirmation No.: 9537

Filed: August 22, 2005

Art Unit: 1644

For: **IMMUNOTHERAPEUTIC AND
IMMUNOPROPHYLACTIC REAGENTS**

Examiner: N. M. Rooney

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

Due to errors on the part of the U.S. Patent and Trademark Office, the original Restriction Requirement of March 19, 2008 was vacated and a new Restriction Requirement issued on September 22, 2008. Accordingly, this is in response to the Restriction Requirement dated September 22, 2008 (Paper No. 20080912).

I. Restriction Requirement

The Examiner has required restriction among the following inventions in the above-identified application:

A. Group Election

Group I (Claims 1, 4-9, 17-18, 21-22, 29-30, 36-37, 45 and 48) drawn to an isolated Lol p 1 peptide, a pharmaceutical composition and a kit thereof.

Group II (Claims 2, 11-16, 19-20, 23-28, 31-37, 45 and 48) drawn to an isolated Lol p 5 peptide, a pharmaceutical composition and a kit thereof.

Group III (Claims 38, 50 and 52) drawn to an isolated nucleic acid encoding an isolated Lol p 1 peptide.

Group IV (Claims 38, 50 and 52) drawn to an isolated nucleic acid encoding an isolated Lol p 5 peptide.

Group V (Claims 39-40) drawn to a method for the treatment of prophylaxis of a condition in a subject, which condition is characterized by an aberrant, unwanted or otherwise inappropriate immune response to Lol p 1 and/or Lol p 5, comprising administering to said subject an effect amount of a Lol p 1 peptide.

Group VI (Claims 39-40) drawn to a method for the treatment of prophylaxis of a condition in a subject, which condition is characterized by an aberrant, unwanted or otherwise inappropriate immune response to Lol p 1 and/or Lol p 5, comprising administering to said subject an effect amount of a Lol p 5 peptide.

Group VII (Claims 46-47) drawn to a method of diagnosing or monitoring a condition in a mammal, which condition is characterized by an aberrant, unwanted or inappropriate response to Lol p 1 and/or Lol p 5, said method comprising screening for Lol p 1 and/or Lol p 5 reactive T cells and/or antibodies utilizing an isolated Lol p 1 peptide.

Group VIII (Claims 46-47) drawn to a method of diagnosing or monitoring a condition in a mammal, which condition is characterized by an aberrant, unwanted or inappropriate response to Lol p 1 and/or Lol p 5, said method comprising screening for Lol p 1 and/or Lol p 5 reactive T cells and/or antibodies utilizing an isolated Lol p 5 peptide.

Group IX (Claims 39-40) drawn to a method for treatment or prophylaxis of a condition in a subject, which condition is characterized by an aberrant, unwanted or otherwise inappropriate response to Lol p 1 and/or Lol p 5, comprising administering to said subject an effective amount of an isolated nucleic acid molecule encoding a Lol p 1 peptide.

Group X (Claims 39-40) drawn to a method for treatment or prophylaxis of a condition in a subject, which condition is characterized by an aberrant, unwanted or otherwise inappropriate response to Lol p 1 and/or Lol p 5, comprising administering to said subject an effective amount of an isolated nucleic acid molecule encoding a Lol p 5 peptide.

B. Species Election

The Examiner further requires that Applicant elect a single species as follows:

- If any of Groups I, III, V or VII is elected, Applicant is further required to elect: a single specific Lol p 1 peptide having a single specific amino acid sequence;
- If any of Groups II, IV, VI or VIII is elected, Applicant is further required to elect: a single specific Lol p 5¹ peptide having a single specific amino acid sequence;
- If Group IX is elected, Applicant is further required to elect: a single specific nucleic acid encoding a Lol p 1 peptide; and
- If Group X is elected, Applicant is further required to elect: a single specific nucleic acid encoding a Lol p 5 peptide.

II. Election

Applicant hereby elects, without traverse, Group II (Claims 2, 11-16, 19-20, 23-28, 31-37, 45 and 48) for continued examination. Applicant further elects SEQ ID NO:53 as a species. Claims 2, 19, 27, 34, 36, 37, 45 and 48 read on this elected species.

Notwithstanding, Applicant understands that, upon allowance of a generic claim, Applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim.

Additionally, as indicated by the Examiner, the nonelected process claims which depend from the elected product claims and include all of the limitations of the elected product claims

¹ At page 9, paragraph 3 of the Restriction Requirement, the Examiner specifies that Applicant is further required to elect a single specific "Lol p 1 peptide." However, as this requirement is identical to paragraph 2 of the Restriction Requirement, Applicant respectfully assumes that the Examiner intended for the third paragraph to reference "Lol p 5 peptide."

will be rejoined in accordance with MPEP § 821.04, once the product claims are found allowable.

Further, Applicant preserves the right to file one or more divisional applications directed to the non-elected subject matter.

CONCLUSION

If a telephone conversation with Applicant's attorney would help expedite the prosecution of the above-identified application, the Examiner is urged to call Applicant's attorney at (617) 227-7400.

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. JKJ-003US from which the undersigned is authorized to draw.

Dated: November 19, 2008

Respectfully submitted,

By

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